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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,

Plaintiff,

vs.

Wesley Warren Temple,

Defendant.

CR- 22-01197-PHX-JJT

**GOVERNMENT'S MEMORANDUM IN
SUPPORT OF DETENTION**

Now comes the United States of America, by and through its undersigned attorneys, and requests the court to detain Mr. Temple pending trial as a flight risk and as a danger to the community. Mr. Temple has requested placement in Crossroads. The United States persists in requesting detention for the reasons set out below.

Charged Offense

Mr. Temple was indicted on August 30, 2022, for one count of Possession of a Firearm (19 Molotov Cocktail incendiary devices) Not Registered in the National Firearms and Transfer Record, Title 26, United States Code, Section 5861(d). [Doc 1.]

Background and Evidence

Law enforcement officers were investigating certain individuals who had entered upon Federal Bureau of Investigation (FBI) property on several occasions, where they placed stickers depicting symbolism associated with the boogaloo movement near secure entry points. The boogaloo is not a single cohesive group, but rather a loose concept arising

1 from internet platforms which has become a rallying point for some fringe politically
2 motivated groups. The concept has resonated with such fringe groups to reference an
3 impending politically-motivated civil war or uprising against the government following
4 perceived incursions on Constitutional rights—including the Second Amendment—or
5 other perceived government overreach.

6 On December 3, 2020, FBI Special Agents and Federal Protective Services Officers
7 went to the residence of one of the individuals suspected of placing the stickers on FBI
8 property, to serve him with violation notices relating to those acts. Upon making contact
9 with the individual, Mr. Temple was found to be with him at his residence. Mr. Temple
10 admitted to agents that he was involved with placing the stickers on FBI property. He also
11 admitted to being a prohibited possessor. [Disclosure p. 3.]

12 On December 4, 2020, while surveilling another of the persons associated with
13 placing boogaloo stickers on FBI property, Mr. Temple was observed arriving at this
14 person's residence and placing what appeared to be an AR-15 style firearm in the trunk of
15 a car registered to the person being surveilled. [Disclosure p. 4.] Mr. Temple and the
16 vehicle owner entered the car and drove off. A traffic stop of the vehicle was conducted at
17 approximately 70 S. 17th Avenue, Phoenix, Arizona, near the State Capital grounds, where
18 an active protest was taking place. [Disclosure p. 4.] Both were initially non-compliant,
19 identified themselves as sovereign citizens, and refused to get out of the vehicle.
20 [Disclosure p. 4.] Eventually, Mr. Temple complied and was taken into custody without
21 further incident. [Disclosure p. 4.] However, the other individual got out of the car, was
22 seen to have a firearm holstered on his hip, then got back in the car. Negotiations failed to
23 get the individual to submit to the stop, and Phoenix Police Special Assignment Unit
24 officers were forced to go in tactically to arrest him. [Disclosure p. 4.] Both individuals
25 were wearing Hawaiian shirts, which are an item of clothing persons who associate with
26 the boogaloo movement wear to identify themselves as such. [Disclosure p. 4.]

27 Mr. Temple admitted to bringing the firearm and three magazines loaded with about
28 90 rounds of ammunition to the other persons residence, because they were going to go

1 shooting after the protest. [Disclosure p. 4.] Mr. Temple identified the firearm as a
2 homemade "Ghost Gun," but would not say who made it. [Disclosure p. 5.] Ghost Guns
3 are typically made from firearms parts purchased over the internet and assembled into a
4 working firearm. Some have no serialized parts and are untraceable. The Ghost Gun was
5 seized from the trunk of the stopped vehicle.

6 Mr. Temple told agents that he does not intend to comply with laws that prohibit
7 him from owning or possessing a firearm. [Disclosure p.5.] When Mr. Temple was
8 questioned about why he was non-compliant during the traffic stop, he replied, "Look, it's
9 no secret, the cat's out of the bag, [about] what we believe in and who we are." Mr. Temple
10 explained further that they didn't believe they should have to yield to officers for "no
11 reason". Mr. Temple said just because he's a felon shouldn't mean he can't be around
12 firearms. Mr. Temple said he's had firearms in his home, and he didn't understand how
13 that wasn't allowed. [Disclosure 61.] Mr. Temple said he didn't plan on complying with
14 any of the gun laws. Mr. Temple said he's tired of complying with laws that violate the
15 Constitution and that he's tired of being pushed around, and then referred to being arrested
16 as the same thing as being kidnapped. [Disclosure p. 62.]

17 Mr. Temple was convicted of Misconduct Involving Weapons, a class 4 felony in
18 Maricopa County Superior court, on October 28, 2021, for possessing the firearm, and
19 sentenced to 2.5 years in the Arizona Department of Corrections. Mr. Temple remained in
20 custody from his arrest on December 4, 2020, until his release from AZDOC on August
21 11, 2022.

22 Mr. Temple's then-wife, RS¹, was interviewed by agents on December 29, 2020,
23 related to the car Mr. Temple had driven to the fellow boogaloo's house, shortly before his
24 December 4, 2020, arrest. [Disclosure p. 166-173.] The car belonged to RS. During that
25 interview, RS told agents, among other things:

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27
28 ¹ A default decree was filed October 13, 2021, finalizing Mr. Temple's and RS's divorce.

- 1 1. Mr. Temple felt it was his right to have a firearm, that it was still his
2 Constitutional right to have firearms even though he was a convicted felon.
- 3 2. When asked if Mr. Temple had ever talked about hurting anyone else and she
4 said "I hate saying this. Um, he did mention at one point that Ghost Guns were
5 built to kill politicians." When asked why she hated saying that and she said it
6 was because she knew "snitches get stitches." RS was asked what she and Mr.
7 Temple were talking about when he told her that Ghost Guns were made to kill
8 politicians and she said he said he made the comment after she asked him why
9 he built a gun.
- 10 3. Agents asked RS when Mr. Temple started wearing the Hawaiian shirts and she
11 said sometime in April [2020] he went on a "meth bender", she sent him to the
12 "funny farm", he came back suicidal, and then sometime around May he started
13 getting involved more in the movement. RS said she believed Mr. Temple
14 learned about it all on-line and from talking to people who were like minded. RS
15 thought it was just his way of expressing his political views, but then she
16 believed he started communicating with people on "me-we" which she believed
17 to be a dark web site.

18 [Disclosure p. 171.]

19 On January 30, 2021, while preparing to move from a house Mr. Temple and RS
20 had leased, RS discovered five cardboard four-bottle ginger beer packages with 19 Molotov
21 Cocktails in them. RS found the Molotov Cocktails in a garage cabinet that she described
22 as an area only used by Mr. Temple. [Disclosure p. 455.] Although their relationship was
23 rocky, RS maintained contact with Mr. Temple while he was detained in the Maricopa
24 County Jail, pending resolution of the state Misconduct Involving Weapons charge.
25 Contact was via electronic communications: RS on her phone and Mr. Temple on a tablet
26 provided by the jail. RS contacted Mr. Temple and had the following text conversation
27 with him:

28 RS: So found your Molotov cocktails. Not really sure how to dispose of those.

1 Real fucking classy totally peaceful protest right?

2 Temple: and here we go...I knew it wouldnt be long before you were mad at me
3 again. sweet I would never use anything like that against humans... it was
4 gonna be some fun out in the desert after the fire restrictions were lifted.
5 not really a big deal. you can throw them away as is, not a big deal

6 RS: Care to explain?

7 Temple: yes, they have caps and are sealed. just leave them in the cardboard And
8 put them in the cans outside. they are stable because of the used motor oil
9 in them. the trash people will separate them

10 RS: They won't blow up when they get dumped into the garbage truck?

11 Temple: I just hurt my back...it felt like my spine smushed a disc. I saw a flash it
12 hurt so bad...I don't know what to do

13 Temple: they are stable...the motor oil in them makes them stable. no they
14 won't blow up lol.

15 [Disclosure p. 455.]

16 Through her interactions with FBI agents after Mr. Temple's December 4, 2020,
17 arrest, RS had contact information for agents associated with the investigation. Out of
18 safety concerns, and not wanting any involvement with the Molotov Cocktails, RS
19 contacted FBI agents associated with the investigation and asked them to come retrieve the
20 Molotov Cocktails. [Disclosure p. 456.] On January 31, 2021, while conducting a consent
21 search and retrieving the Molotov Cocktails, RS showed agents the above text conversation
22 with Mr. Temple.² [Disclosure p. 455.]

23 The FBI laboratory later identified the items as incendiary devices consisting of
24 glass ginger beer bottles containing a gelatinous polystyrene substance, gasoline, and motor

25
26
27 ² Agents also obtained Mr. Temple's text communications from the Maricopa
28 County Sheriff's office by subpoena. The Maricopa County Sheriff's Office provides
inmates notice that communications over the jail provided tablet are subject to monitoring.
[Disclosure pp. 2138-51.]

1 oil, with original bottle caps secured on each of them. [Disclosure pp. 2093-2128.] Cloth
2 wicks were located next to each bottle. The bottles were also examined for fingerprints and
3 DNA. Mr. Temple's fingerprints were found on one of the bottles. [Disclosure pp. 2082-
4 89.] Mr. Temple's DNA was found on several of the bottles. It should also be noted that
5 DNA from an unidentified female was also located on some of the bottles. [Disclosure pp.
6 2075-81.]

7 On September 1, 2022, a post arrest interview, Mr. Temple indicated that he knew
8 that items were seized from his home on January 31, 2021, but did not like the agent's use
9 of the term "Molotov Cocktail." Mr. Temple claimed he only knew about plastic jugs
10 containing automotive fluids being in the garage and thought that was what RS was
11 referring to in their text exchange. Mr. Temple stated that he knew what a Molotov Cocktail
12 was because of the Internet. He described them as a bottle of flammable fluid that's broken
13 with the intent of firebombing something, and it's ignited by a flammable source such as a
14 match. Mr. Temple said that he was talking to RS about one-gallon jugs/water containers
15 filled with various automotive fluids, not Molotov Cocktails. Mr. Temple also stated that
16 he had no other way to dispose of jugs and their contents, so he figured "let's go blow some
17 shit up". Mr. Temple reiterated he did not "manufacture any firebombs." [Disclosure pp.
18 2197-2201.]

19 **Title 18 USC § 3142(g) factors**

20 **1. Nature and circumstances of the charged offense:**

21 Possession of one, much less 19 Molotov Cocktails creates a dangerous situation. The
22 flammable contents in glass bottles create a fire hazard under the best conditions. Even if
23 Mr. Temple's claim that he was merely going to have some fun with them in the desert is
24 to be believed, he planned to play with fire out in nature which could lead to a catastrophic
25 fire.

26 Although Title 26 U.S.C. §5861(d) Possession of a Firearm Not Registered in the
27 National Firearms Registration and Transfer Act is not a crime of violence *per se*, Molotov
28 Cocktails are destructive devices that can damage property and injure or kill people,

1 depending on how they are used. The timing of Mr. Temple's possession of the items, his
2 interest in protests, his belief that he should be able to possess firearms despite his felony
3 convictions, and his association with the boogaloo movement present a concerning set of
4 circumstances. By his own words, Mr. Temple does not believe that settled law regarding
5 the possession of firearms applies to him. This combination of factors establishes by clear
6 and convincing evidence that Mr. Temple presents a danger to the community.

7 **2. Weight of the Evidence:**

8 The Molotov Cocktails were discovered by RS in garage cabinets when she was
9 preparing to move from the home Mr. Temple and RS had leased. Mr. Temple was in
10 Maricopa County Jail, pending resolution of the Misconduct Involving Weapons charge in
11 Superior Court at the time. RS texted Mr. Temple about the Molotov Cocktails. Mr. Temple
12 received the texts and responded on a jail-provided tablet. After that text conversation, RS
13 contacted the FBI to report the Molotov Cocktails and have them safely removed from the
14 residence. While FBI was removing the items, RS showed agents the text conversation on
15 her phone. Agents independently obtained the communications from the Maricopa County
16 Sheriff's Office via subpoena. Mr. Temple had notice that non-legal communications over
17 the tablet were subject to jail monitoring and were not private.

18 Mr. Temple described the Molotov Cocktails well in the texts. His texts establish that
19 he knew they consisted of capped ginger beer bottles of gasoline mixed with motor oil and
20 placed in the typical four-pack cardboard beer bottle packaging. He commented that the
21 Molotov Cocktails were sealed and stable because of the motor oil in the gasoline. RS had
22 not provided any details about the items when she confronted Mr. Temple. The evidence
23 of Mr. Temple's knowledge of the Molotov Cocktails is clear.

24 In addition to Mr. Temple's knowledge of the Molotov Cocktails, his DNA and
25 fingerprints were found on the bottles by the FBI lab. The lab also identified the items as
26 functional incendiary bombs/destructive devices.

27 Therefore, the weight of the evidence against Mr. Temple is overwhelming.

28 **3. History and Characteristics:**

1 a. **Character**

2 Mr. Temple associates with a movement that espouses concerning beliefs.
3 His association with the movement is not limited to virtual internet comradery, Mr. Temple
4 personally associates with persons in Arizona who share his beliefs and similarly engage
5 in acts prohibited by law. While mere association and belief are protected under the First
6 Amendment, Mr. Temple's illegal possession of Molotov Cocktails and firearms are illegal
7 acts that appear to be associated with his beliefs. Further, troubling comments attributed to
8 Mr. Temple by RS strongly suggest that Mr. Temple has dangerous thoughts. Those
9 thoughts, coupled with his illegal possession of Molotov Cocktails and firearms establish
10 clear and convincing evidence that Mr. Temple is a danger to the community.

11 b. **Mental condition**

12 Mr. Temple self-reported attending unspecified therapy in 2020, and a
13 belief that he needs further assistance. RS also noted some sort of mental health
14 intervention, though the timeframe is unclear, and it could be the same assistance Mr.
15 Temple self-reported. Further, RS noted that at the time of his release from "the funny
16 farm" Mr. Temple was suicidal. Mr. Temple's mental stability is questionable.

17 c. **Family ties**

18 Mr. Temple is divorced from RS. He self-reports one child in New Mexico
19 with whom he has no contact, and another in Tennessee with whom he has regular contact.
20 Mr. Temple self-reports that he does not have any contact with his father, who lives in NM,
21 but regular contact with a brother in Nevada. It does not appear that Mr. Temple has any
22 family ties in Arizona.

23 d. **Employment**

24 Mr. Temple has no recent employment due to his incarceration and
25 prohibition by a subsequent residential halfway house facility where he was living post-
26 incarceration and prearrest in the present case. Therefore, he would not be leaving gainful
27 employment if he were to flee the jurisdiction.

28 e. **Financial Resources**

1 Mr. Temple reports some debt and no expenses, but no income because he
2 Has either been incarcerated or in a halfway house since December 2020. Placement at
3 Crossroads would not be impacted by Mr. Temple's current financial situation.

4 **f. Length of residence**

5 Mr. Temple self-reports that he has been back and forth between Arizona
6 and New Mexico throughout his life. However, his most recent residential ties have been
7 in Arizona. There does not appear to be anything other than this case that is keeping Mr.
8 Temple in Arizona.

9 **g. Community ties**

10 Mr. Temple does not appear to have any community ties in Arizona, other
11 than his associations with others who share his boogaloo related beliefs.

12 **h. Past conduct**

13 Mr. Temple's past conduct is recounted throughout the various §3142
14 Factors herein. Mr. Temple presents as a drug abuser, who serially drives while under the
15 influence, and who has beliefs and an infatuation with firearms that leads him to violate
16 established law. According to RS he is known to have created a Ghost Gun for an
17 extremely troubling reason. These factors establish both his danger to the community and
18 his refusal to comply with the law.

19 **i. Drug abuse**

20 Mr. Temple's criminal history and self-reported participation in
21 rehabilitation programs in 2011, 2020, and while most recently incarcerated (2020-2022)
22 establish a longstanding drug problem. Even assuming Mr. Temple has the best of
23 intentions if released to Crossroads, the stresses currently in his life are likely to challenge
24 his ability to remain sober and comply with conditions of release. Mr. Temple's history
25 foretells likely failure if released.

26 **j. Criminal History** (from initial PTS Report)

- 27 i. On May 17, 2004, Mr. Temple was convicted of two Misdemeanor
28 Counts of Interfering with Judicial Proceedings in Albuquerque, NM.

- 1 ii. On November 3, 2004, Mr. Temple was convicted of a Misdemeanor
- 2 DUI Chino Valley, AZ
- 3 iii. On November 2, 2004, Mr. Temple was convicted of Misdemeanor
- 4 DUI Liquor/Drugs combo in Prescott, AZ
- 5 iv. On April 13, 2005, Mr. Temple was convicted of Misdemeanor Theft
- 6 in Prescott, AZ.
- 7 v. On April 28, 2005, Mr. Temple was convicted of Felony Possession
- 8 of Drug Paraphernalia, and Misdemeanor Driving without License
- 9 due to DUI in Yavapai County, AZ.
- 10 vi. On April 5, 2006, Mr. Temple was convicted of Misdemeanor
- 11 Larceny in Taos, NM.
- 12 vii. On January 25, 2008, Mr. Temple was convicted of Burglary and
- 13 Trafficking in Drugs in what appears to be a deferred prosecution.
- 14 viii. On March 3, 2008, Mr. Temple was convicted of Burglary and
- 15 engaged in a 2nd chance drug court program in Taos, NM.
- 16 ix. On May 18, 2010, Mr. Temple was convicted of a Misdemeanor
- 17 Failure to Appear in Yavapai County, AZ.
- 18 x. On May 17, 2010, Mr. Temple was convicted of a Misdemeanor
- 19 Failure to Appear, Prescott Valley, AZ
- 20 xi. On September 12, 2011, Mr. Temple was convicted of Felony
- 21 Aggravated DUI in Prescott, AZ
- 22 xii. On October 12, 2015, Mr. Temple was convicted of Misdemeanor
- 23 Operation of a Vehicle without an Interlock Device in Flagstaff, AZ
- 24 xiii. On February 12, 2016, Mr. Temple was convicted of Felony
- 25 endangerment and Felony Aggravated DUI in Yavapai County,
- 26 Arizona. These convictions resulted in sentences of 1 year and 2.5
- 27 years imprisonment respectively.
- 28

xiv. On October 28, 2021, Mr. Temple was convicted of Felony Misconduct Involving Weapons and sentenced to a presumptive term of 2.5 years. Mr. Temple was in pretrial custody for this offense when the Molotov Cocktails were discovered.

xv. At the time of Temple's arrest for the December 4, 2020, MIW offense (number xiv above), Mr. Temple was on pre-trial release for two Arizona state felony drug charges from a March 2020 arrest. It appears that in a global resolution with the Misconduct Involving Weapons charge on October 28, 2020, a drug possession charge was dismissed, but Temple was sentenced to a probation tail for a Class 6 Undesignated Possession of Drug Paraphernalia charge. That probation term was set to begin upon his release from DOC, which happened on August 11, 2022.

Mr. Temple's lengthy criminal history establishes his unwillingness to comply with the law. When considered with his stated belief that the law is wrong and he is entitled to possess firearms pursuant to the Constitution, his criminal history is especially telling regarding the likelihood that he will comply with the law going forward.

k. Record of appearance for court proceedings

As noted in subparagraph j (ix and x) above, Mr. Temple had been convicted for failing to appear at court proceedings as directed. Mr. Temple cannot be trusted to appear in court as ordered. This is especially true when the court considers that he fundamentally disagrees with the law that brings him before this court.

4. Nature and seriousness of the danger to any person or the community

Prior to his most recent incarceration, Mr. Temple was associating with Persons identified with the boogaloo movement. Despite his felony convictions, and knowledge of the law to the contrary, Mr. Temple maintains a belief that he can nonetheless possess firearms and has done so. Further, the weight of the evidence in the present case establishes by clear and convincing evidence that Mr. Temple possessed Molotov

1 Cocktails. Prior statements to RS present a troubling picture of a man who built a Ghost
2 Gun to kill politicians. That statement, coupled with his association with a movement that
3 is anticipating a violent civil dispute due to government overreach, establishes Mr.
4 Temple's serious danger to the community.

5 **Conclusion**

6 Mr. Temple presents as a man who checks every box in Title 18 United States Code,
7 Section 3142(g) in a bad way. Such a man presents both a danger to the community and a
8 flight risk. While Mr. Temple could benefit from the services available at Crossroads,
9 where he has been conditionally accepted, that acceptance does not overcome his risk of
10 flight or danger to the community. Consideration of the nature and circumstances of the
11 charged offense, coupled with the weight of the evidence against Mr. Temple, and his
12 history and characteristics, Mr. Temple should be detained as a flight risk and a danger.

13 Respectfully submitted this 28th day of September, 2022.

14 GARY M. RESTAINO
15 United States Attorney
16 District of Arizona

17 *s/Glenn B. McCormick*
18 GLENN B. McCORMICK
19 Assistant U.S. Attorney
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CERTIFICATE OF SERVICE

I hereby certify that on 28th day of September, 2022, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing a copy to the following CM/ECF registrant:

Stephen S. Garcia

s/Glenn B. McCormick
U.S. Attorney's Office